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ADDRESS BY
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MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA

MAIN ESTIMATES

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Thank you, Mr. Chairman.

As you know, I appeared here in March to table the spending estimates of the Department of Justice, and I am pleased to once again meet the members of your committee today to re-table our main and supplementary spending estimates.

Joining me today is my Deputy Minister, Morris Rosenberg, and the Assistant Deputy Minister responsible for corporate management and administration, Josée Touchette.

Mr. Chairman, the spending estimates I am tabling today are identical to those I tabled in March. However, since I last appeared before this committee, the Department of Justice tabled its Report on Plans and Priorities for 2004-2005, and I will briefly discuss those priorities with you today.

But first, Mr. Chairman, I would like to present a snapshot of our changing – transformative – socio-legal environment as a way of providing you with a context for the pressures that affect our budget.

Over the past decade, the Department of Justice has sought to keep pace with a rather remarkable growth in the demand for its legal services. Currently, we are working on approximately 240,000 different files, including 45,000 civil litigation cases and 12,500 Indian residential school claims, and an inventory of some 180,000 criminal files – let alone the increasing number of high-impact litigation cases.

To handle both the increased volume and the increased complexity of these cases, the department has made significant changes in the way we conduct our work. These changes are reflected in the spending estimates before you today – spending estimates that reflect both the uniqueness of the department's mandate and the changing times in which it is called upon to deliver that mandate.

Over this same period, Canada has itself undergone a series of transformative changes – even revolutionary changes – that have had a dramatic impact on society and the legal system.

The first of these is the constitutional revolution with its centerpiece the *Canadian Charter of Rights and Freedoms,* where we moved from being a parliamentary democracy to a constitutional democracy with individuals and groups having a panoply of rights and remedies that were hitherto unavailable, and a new set of responsibilities and obligations for the Minister and the Department of Justice.

Second is the international law revolution – the revolution in international human rights, humanitarian, criminal, and economic law involving, for example, the internationalization of human rights and the humanization of international law – the whole not unrelated to the globalization process – where globalization is not just an economic term but a juridical one involved in the globalization of media and markets technology and trade and, indeed, the globalization of injustice – of war crimes, crimes against humanity, and genocide.

Third is the Aboriginal rights revolution involving, inter alia, the intersection of sections 15, 25 and 35 of the *Charter of Rights and the Constitution of Canada* - where Aboriginal people interact more with the justice system and the courts have emerged as a main avenue of redress for a whole network of claims, be it in the framework of the treaty process, or in the framework of residential schools, and the like.

Fourth, and as a corollary, we have seen the development of a rights based discourse whereby public policy issues are considered in relation to specific rights rather than choices that are made among various policy options. Moreover, Canadians are less inclined to defer to governments – what Sociologist Edgar Freidenberg called the decline of deference to authority, and which finds expression in a rise of legal challenges to government action and in a willingness to criticize proposed laws, among other things.

Fifth, this increase in recourse to the courts has created what can be described as the Canadian "culture of litigation," and has increased the scope, volume, and complexity of cases. There is the new practice of determining fees based on the results obtained in class actions, making it easier for people to decide to take a matter to court.

We see this in the mounting high-cost claims, not only under the *Charter*, but in the form of class actions, lawsuits - including mass tort claims, and claims for redress of historical wrongs, not to mention the greater and more complex caseloads in the civil, criminal, and administrative justice systems, including so-called mega-trials.

Sixth, the Department of Justice is also called upon to play a larger role in international activities and international law development, from participation in the negotiation of new instruments to the assessment of their impact on domestic law.

There has been the judicializing of international relations, notably rules-based trade agreements, and an increasing tendency on the part of NGOs to call for new legally-binding standards in the matter of human rights, and so forth. While Canada is a committed Party to all the major international human rights treaties there is still an expectation that we will participate actively in the development of new human rights instruments and strengthening of human rights mechanisms. The implementation of a rules-based trading regime under NAFTA and WTO has significantly increased the legal dimension and litigation burden of international trade disputes.

Other challenges that have inspired greater demand for justice services include increased demands on access to justice, with corresponding pressures on provincial legal aid systems; escalating recourse to the courts and tribunals in issues related to our immigration and refugee systems and increasing challenges to national security initiatives.

And finally, we must consider advances in science and technology – the legal system must adapt to rapidly evolving developments in biotechnology, genetics, the Internet, and the like.

All of these exert a significant impact on the government's policy and financial flexibility as well as on our potential or prospective liability.

Mr. Chairman, I will now turn to our vision for the future, as set out in our 2004-2005 Report on Plans and Priorities.

The Department of Justice seeks to secure a fair, just, and democratic society while supporting the government's goals of strengthening the social foundations of Canadian life, building a twenty-first century economy, and ensuring Canada's standing in the world.

But the Justice system is under increasing pressure, however, from the transformative changes in Canadian society and in the world at large, and impacting on law and lawyering. Moreover, many of the juridical challenges arising from this transformative socio-legal environment – and I am not speaking just of the inventory of litigation, but which challenges include the protection of security and human rights, of access to Justice and the rights of victims, of combating terrorism and organized crime, of protecting vulnerable groups in society, of combating the growing incidence of cyber-crime, hate crimes, or discrimination – each and all of these need more reformist and collaborative approaches, as well as action on both the domestic and international levels.

The justice system will therefore have a significant role in not only responding to but helping to shape these transformative changes from without. But an effective response will also require transformation from within – including the justice system and the Justice Department. Accordingly, may I share with you five basic principles – as set forth in my priorities and plans for 2004-2005 – principles which underpin these priorities and reflect my vision for the pursuit of justice.

1. **Protecting security and promoting human rights** are core government responsibilities in a world where the ultimate human right is personal security and freedom from fear. Here at home, this means safeguarding Canadians' security by continuing to make sure that our approach to anti-terrorism is comprehensive, effective, and fair. Looking at the broader context for safety and security, we will pursue international cooperation, working with other countries toward the same objectives and demonstrating the integrated Canadian approach to human security and human rights; we will provide leadership in fighting global crime and enhancing the international justice infrastructure; and we will further our efforts to ensure that Canada is not a safe haven for perpetrators of war crimes and crimes against humanity. A just society is tested by the way in which it treats its most vulnerable: children, women, minorities. This will be reflected in steps to protect children from exploitation and abuse, to promote a child-centred approach in family justice issues, and to ensure that the youth justice system continues to balance public safety and rehabilitation. Addressing all forms of violence against women is another facet of this theme. This will include measures to counter trafficking in persons domestically and internationally, through law reform and policy development, and assisting in a parliamentary review of the laws governing sex trade workers. We will continue to promote the development, ratification and effective implementation of international private law conventions aimed at protecting children and vulnerable adults, and to participate in the negotiation of a new UN instrument on the human rights of disabled persons.

As indicated in the Speech from the Throne, Canada can also play a leading role in the struggle against hate crimes and hate speech. What is required – both domestically and internationally – is a culture of respect in place of a culture of contempt; a culture of human rights in place of a culture of hate; a culture of accountability in place of a culture of impunity. This would include: the unequivocal condemnation of acts of hate, the development of inter-religious and intercultural dialogue as a component of our shared citizenship, and the education of our children in anti-racism, human rights, multiculturalism, and the lessons of the Holocaust and other genocides.

3. Third is our commitment to **Aboriginal justice**, including combating the disproportionate representation of Aboriginal people in the justice system, both as victims of crime and as accused, and the converse, addressing the under-representation of Aboriginals in the Justice system. Reform will help ensure that Aboriginal traditions and approaches are reflected in, and accepted by, the mainstream justice system. Working with Aboriginal people and other partners, we will continue to pursue alternatives to litigation where appropriate in resolving disputes, as well as approaches that promote reconciliation and renewal.

4. Fourth, relevance and effectiveness in the twenty-first century will also depend on a **reform of the justice system**. To make sure the justice system remains relevant to Canadians, it must

reflect Canadian values and address emerging issues in a strategic and timely way.

We will launch a strategy and establish principles for reforming the criminal law to capture new realities. We will strive to improve the balance between access to justice and efficiency in the justice system while seeking a continuum of conflict resolution options. An important part of ensuring access to justice will be to work with our partners on the sustainability of the legal aid system for both criminal and civil cases.

I should add that just as we seek to improve our own justice system, we must continue to look beyond our borders – as we have in Bangladesh and Indonesia – and lend our expertise to foreign states.

Here in Canada, I am happy to say that some significant progress has been made with regard to reform of the justice system. The *Youth Criminal Justice Act*, for instance, is making the justice system more equitable and effective for young Canadians. In addition, a long list of pilot projects is demonstrating innovative and efficient ways to rehabilitate and reintegrate youths in conflict with the law.

To help mitigate the effects of divorce on children, a renewed funding agreement was reached with the provinces and territories to implement the Child-Centred Family Justice Strategy. The strategy promotes the use of a wide range of services to resolve parenting disputes.

Furthermore, a new Legal Aid Strategy has been articulated, to ensure that economically disadvantaged persons facing serious criminal charges have access to legal representation. As well, Legal Aid funding agreements were reached with the provinces and territories. The department also released a strategic plan and dedicated funds to improve access to the justice system for official language minority communities.

5. Finally, as part of the government's overall goal of strengthening democracy, we will work toward **participatory justice**. This will be facilitated in part by access to relevant information, and in this context we will examine a number of key issues with a view to improve the federal access to information regime – which is bound up with the democratic process.

In addition, we will seek continuing dialogue on how the justice system can best express Canadian values and aspirations. That is why, shortly after my appointment, I began a process of democratic outreach – meeting with my provincial counterparts, members of the Bench and Bar, regional Justice Department officials, parliamentary committees, stakeholders in the Justice system, the whole as a basic tenet of my work.

Accordingly, we will continue to work closely with other levels of government, non-governmental organizations, individual Canadians – and this parliamentary committee to shape the debate and define the solutions. As responsible members of the international community, our commitment to strengthening democracy will extend to supporting democratic reform in states in transition.

I would like to mention, Mr. Chairman, that this week is Restorative Justice Week. Restorative justice puts the emphasis on repairing the harm caused by conflict and crime. With It is a wonderful example of participatory justice, as it involves the participation of victims, offenders and the community. The Department of Justice supports this innovative approach – one that The process encourages the offender to take responsibility for harmful behaviour in a meaningful way, and to gain insight into the its causes and the effects of that behaviour on others.

Mr. Chairman, with these plans and priorities, we are initiating the transformation needed in the justice system to meet the challenges of the twenty-first century. The Department of Justice has done a great deal to find solutions to the challenges that I have outlined. I believe, however that much work remains to be done, and that we must continue to collaborate with the various levels of government and other stakeholders to effectively address these challenges.

In closing, Mr. Chairman, the Department of Justice is continuously seeking to improve the access, the equality, and the effectiveness of our system of justice. Our work involves partnerships with the other provinces and territories, with other departments and agencies, with community and service groups, and with individual Canadians. It also involves cooperation and collaboration with the international community.

But as this socio-economic environment changes and as the demand for legal services grows, so too must the Department of Justice. This is not just a financial or accounting matter. I refer here to the first words I spoke after being sworn-in as Minister of Justice and Attorney General: that my overarching priority will be the pursuit of justice, and within that, the promotion and protection of equality rights as part of the foundation for a justice system built around the promotion and protection of human rights and human dignity.

For that reason I believe the spending estimates before you should therefore be seen as investments in Canada's system of justice – as investments in the pursuit of justice – which will help make our system more accessible, inclusive, and equitable for all Canadians.

I welcome your questions and look forward to your feedback.

Thank you.

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